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**DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE**

19 CFR PARTS 132 AND 163

(T.D. 00-49)

RIN 1515-AC55

**EXPORT CERTIFICATES FOR SUGAR-CONTAINING PRODUCTS
SUBJECT TO TARIFF-RATE QUOTA**

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, the interim rule amending the Customs Regulations that was published in the **Federal Register** on February 4, 2000, as T.D. 00-7. The interim rule set forth the form and manner by which an importer establishes that a valid export certificate is in effect for certain sugar-containing products subject to a tariff-rate quota, that are products of a participating country, as defined in regulations of the United States Trade Representative (USTR). The export certificate is necessary to enable the importer to claim the in-quota rate of duty on the sugar-containing products.

EFFECTIVE DATE: July 14, 2000

FOR FURTHER INFORMATION CONTACT:

Leon Hayward, Office of Field Operations, (202-927-9704).

SUPPLEMENTARY INFORMATION:**BACKGROUND**

As a result of the Uruguay Round Agreements, approved by Congress in section 101 of the Uruguay Round Agreements Act (URAA) (Pub. L. 103-465), the President, by Presidential Proclamation No. 6763, established a tariff-rate quota for imported sugar-containing products.

Under a tariff-rate quota, the United States applies one tariff rate, known as the in-quota tariff rate, to imports of a product up to a particular amount, known as the in-quota quantity, and another, higher rate, known as the over-quota rate, to imports of a product in excess of the given amount. The preferential, in-quota tariff rate would be applicable only to the extent that the aggregate in-quota quantity of a product allocated to a country had not been exceeded.

Under Presidential Proclamation No. 7235, dated October 7, 1999, the United States Trade Representative (USTR) was given authority under section 404(a) of the URAA to implement the tariff-rate quota for sugar-containing products to ensure that they do not disrupt the orderly marketing of such products in the United States. The USTR has already assigned Canada an in-quota allocation of the sugar-containing products (64 FR 54719; October 7, 1999).

As part of the implementation of this tariff-rate quota, the USTR has established an export-certificate program under which exporting countries that have an allocation of the in-quota quantity and that wish to participate in the program may use export certificates for their sugar-containing products that are exported to the United States. The USTR issued regulations for this export-certificate program (15 CFR part 2015) (64 FR 67152; December 1, 1999).

An exporting country wishing to participate in the export-certificate program must notify the USTR and provide the necessary supporting information. As defined in the USTR regulations (15 CFR 2015.2(e)), a participating country is a country that has received an allocation of the in-quota quantity of the tariff-rate quota, and that the USTR has determined, and has so informed Customs, is eligible to use export certificates for their sugar-containing products exported to the United States. The USTR has stated that it intends to publish a notice in the **Federal Register** whenever a country becomes, or ceases to be, a participating country.

The particular sugar-containing products subject to a tariff-rate quota for which the USTR has established the export-certificate program are described in additional U.S. Note 8 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTSUS). Specifically, unless excepted as provided in additional U.S. Note 3 to chapter 17, HTSUS, the imported sugar-containing products covered by the export-certificate program contain over 10 percent by dry weight of sugars derived from cane or sugar beets, whether or not mixed with other ingredients, and they are classified

under one of the following HTSUS subheadings: 1701.91.54, 1704.90.74, 1806.20.75, 1806.20.95, 1806.90.55, 1901.90.56, 2101.12.54, 2101.20.54, 2106.90.78, or 2106.90.95.

While a country does not need to participate in the export-certificate program in order to receive the in-quota tariff rate for its share of the in-quota quantity, using export certificates assures the exporting country that only those exported sugar-containing products that it intends for the United States market are counted against its in-quota allocation. As already noted, this helps ensure that such products do not disrupt the orderly marketing of sugar-containing products in the United States.

On December 4, 1998, the Governments of the United States and Canada entered into a Record of Understanding regarding Areas of Agricultural Trade. In Annex 17 of this Record of Understanding, the United States agreed to require an export permit issued by the Government of Canada in order to enable an importer to claim the in-quota tariff rate for those sugar-containing products of Canadian origin described in additional U.S. Note 8 to chapter 17, HTSUS. Canada was thus a participating country in this export-certificate program as of January 31, 2000, the effective date of the USTR rule.

In accordance with the rulemaking of the USTR, by a document published in the **Federal Register** (65 FR 5430) on February 4, 2000, Customs issued an interim rule that added a new ' 132.17 to the Customs Regulations (19 CFR 132.17), in order to prescribe the form and manner by which an importer establishes that a valid export certificate exists, including a unique number for the certificate that must be referenced

on the entry or withdrawal from warehouse for consumption, whether filed in paper form or electronically. This was intended to ensure that no imports of the specified sugar-containing products of a participating country are counted against the country's in-quota allocation unless the products are covered by a proper export certificate. The export certificate is necessary in this regard in order to enable the importer to claim the in-quota rate of duty on the sugar-containing products.

In addition, the Interim (a)(1)(A) List set forth as an Appendix to part 163, Customs Regulations (19 CFR part 163, Appendix), that lists the records required for the entry of merchandise, was revised to add a reference to the requirement in new ' 132.17 that an importer possess a valid export certificate for sugar-containing products that are subject to a tariff-rate quota and that are products of a participating country, in order for the importer to be able to claim the applicable in-quota rate of duty.

Also, ' 132.15, Customs Regulations (19 CFR 132.15), was revised to make provision for electronic entry filing in the case of beef subject to a tariff-rate quota, for which the importer must similarly possess a valid export certificate in order to claim the in-quota rate of duty.

No comments were received from the public in response to the interim rule, and Customs has now determined to adopt the interim rule as a final rule without change.

THE REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

As discussed in the interim rule, since the amendments are not subject to the notice and public procedure requirements of the Administrative Procedure Act (5 U.S.C.

553), they are not subject to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Also, because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to the provisions of E.O. 12866.

PAPERWORK REDUCTION ACT

The collections of information involved in this interim rule have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Numbers 1515-0065 (Entry summary and continuation sheet) and 1515-0214 (General recordkeeping and record production requirements). This rule does not propose any substantive changes to the existing approved information collections.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

LIST OF SUBJECTS

19 CFR PART 132

Agriculture and agricultural products, Customs duties and inspection, Quotas, Reporting and recordkeeping requirements.

19 CFR PART 163

Administrative practice and procedure, Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

AMENDMENTS TO THE REGULATIONS

Accordingly, the interim rule amending 19 CFR parts 132 and 163, which was published in the **Federal Register** at 65 FR 5430 on February 4, 2000, is adopted as a final rule without change.

Commissioner of Customs
Raymond W. Kelly

Approved: June 14, 2000

Deputy Assistant Secretary of the Treasury
John P. Simpson